

Applicant: Kevin L. Parsons
Application No.: 10/616,441
Filed: July 9, 2003
Date: July 14, 2004

REMARKS

In response to the Office Action mailed April 19, 2004 Applicant has amended claims 48, 62 and 65 to correct a typographical error and to better define the present invention. Further prosecution of the present application and reconsideration and withdrawal of the rejections of the claims are respectfully requested.

The present invention concerns a flashlight comprising an LED, a power source, a body adapted to receive the LED and the power source, a switch, a side cover disposed on the body, the side cover having at least one translucent panel.

The Office Action has rejected claims 48-52, 59 and 60 under 35 U.S.C. Section 102(b) as being anticipated by Dalton et al. (U.S. Patent No. 6,070,990). While Dalton et al discloses a flashlight having an LED, battery, switch and tray type housing, it does not disclose a side cover, and specifically not a *translucent* side cover. Dalton instead discloses an inexpensively made flashlight that provides an advertiser a means to distribute an inexpensive gift having its advertising thereon. As noted in the specification (column 1, line 58) item 20 is an adhesive label used to keep the workings of the flashlight together on the tray-type housing, while providing a place for an advertisement. The title of the Dalton et al. patent is "Card Light Having a Cover Being an Adhesively Attached Label". Nowhere in the specification is there an indication that any housing or enclosure element of Dalton is translucent.

With respect to claim 48, item 21 is not a "body" as mistakenly noted in the Office Action, and as has, through a typographical error in the '990 patent document, been given two different designations¹. Neither the tray 12 nor the wall 21 (which is a wall of tray 12) is

1. See, column 2, lines 8, where item 21 is designated a "wall"; and column 2, line 11, where item 21 is designated a "tray"; please note the "tray" should be designated item 12.

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translucent. Applicant finds no statement or teaching of the use of a translucent tray or wall in the '990 patent. The paragraph cited in the Office Action, purported to show translucency, instead only describes the type of materials used and not specific characteristics, such as translucency. While materials are disclosed the disclosure of those materials would not teach or suggest to persons having skill in the art the teachings of the present invention. The Dalton et al. disclosure in no way teaches the use of a translucent side panel and cannot be said to anticipate the present invention.

With respect to specific rejections regarding claims 49, 50, 51 and 60, as noted above, Dalton et al. does not teach the use of translucent materials. Further, the sections of the '990 patent cited do not discuss the use of polycarbonate materials, and specifically translucent polycarbonate materials. Because such materials are not specifically listed Applicant cannot understand how the cited reference anticipates the present invention.

Further, with respect to specific objections regarding claim 52, it is noted that element 20 is not placed beneath a translucent side cover. First, as noted above, there is no translucent cover in the cited reference, Second, element 20 is placed *above* and opposite tray 12, and tray 12 is not translucent; that is the decorative element would be opposite the side panel and not visible through it, if the side panel was translucent. Only the adhesive portion of label 20 faces tray 12, such that it would not present any decoration to such a flashlight even if tray 12 was made of a translucent material. Regarding the specific objections to claim 59, while Dalton et al. may show a tray having a raised edge, it does not show or teach integrated side panels and frames, nor specifically a side panel formed of a translucent material.

Claims 62, 65, 66 and 70 have been rejected under 35 U.S.C. Section 102(b) as being anticipated by Dalton et al (the '990 patent). As noted above, Dalton et al. does not teach the use of one or more translucent side covers as taught by the present invention. For the reasons cited above, the Dalton et al. patent does not anticipate the present invention.

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Claims 53-58, 60, 61, 63 and 64 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Dalton et al. as applied to claims 49 and 52, and further in view of Vanderbelt et al (U.S. Patent No. 5,457,613) and in view of Holat (U.S. Patent No. 6,036,810). As noted above, Dalton et al. does not teach the use of a translucent side panel in a flashlight of the type claimed. The teachings of Vandebelt et al., and Holat, that is the uses of decorative items including foil, would not make the present invention obvious. There being no translucent panel in Dalton et al., no one having skill in the art would add decorations beneath an opaque panel (item 12), as taught by Dalton et al. to create the flashlight of the present invention. Further, it would not be obvious for a person having ordinary skill in the art to use polycarbonate panels to arrive at the present invention, as the prior step of translucency is not shown by the three patents cited.

The use, by the Office Action of the cited references is an attenuated attempt to construct the flashlight of the present invention using hindsight. However, the main reference, Dalton et al. is lacking the use of translucent panels, or any side panels other than an adhesive label, causing the failure of the combination to even arrive at the present invention. The combination does not teach the invention as claimed. Further, there is no disclosure in any of the patents cited which would cause a person having skill in the art to make such a combination. Dalton et al. is designed to provide an inexpensive gift having an adhesive label advertisement thereon. Why would any person having ordinary skill in the art desire to detract from the strength of the advertisement by providing a decoration on an opposite side to the advertisement?

Claims 67-69 and 71 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Dalton et al. as applied to claim 65, and further in view of Vandebelt et al. (U.S. Patent No. 5,457,613) and in view of Holat (U.S. Patent No. 6,036,810). For the reasons stated above, the combination suggested by the Office Action fails to make the present invention obvious.

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Claims 72-76 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Dalton et al. in view of Vandenbelt et al. (U.S. Patent No. 5,457,613) and in view of Holat (U.S. Patent No. 6,036,810). For the reasons stated above, the combination suggested by the Office Action fails to make the present invention obvious.

Applicant hereby respectfully requests reconsideration and continued examination. A sincere effort has been made to overcome the Action's rejections and to place the application in allowable condition. Applicant invites the Examiner to call Applicant's attorney to discuss any aspects of the invention that the Examiner may feel are not clear or which may require further discussion.

In view of the foregoing remarks and amendments, it is believed that the subject application is now in condition for allowance, and an early Notice of Allowance is respectfully requested.

Respectfully submitted,



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